IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1014 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HONORARY SECRETARY

Versus

SUDHABEN CHAUDHARY

Appearance:

1. Special Civil Application No. 1014 of 2001

MR BB NAIK for Petitioners No. 1-2

MR PV NANAVATI for Respondent No. 1

MR VIBHUTI NANAVATI for Respondent No. 1

Ms. Shraddha Trivedi, AGP for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 28/12/2001

ORAL JUDGEMENT

Rule, service of which is waived by Mr. Vibhuti P. Nanavaty for respondent No.1 and Ms. SHraddha Trivedi, learned AGP for the respondent No.2. With the consent of the learned advocates for the parties and in the circumstances of the case, the matter is taken up for final hearing today itself.

Heard the learned advocates for the parties.

In this petition, notice was issued by this court and ad.interim relief has been granted which is operating till today. In this petition, the petitioner has challenged the order passed by the Gujarat Secondary Education Tribunal, Ahmedabad in Application No. 88 of 1993 dated 26th December, 2000. Operating portion of the order in para 11 is reproduced as under :

> "In the result, this application is partly allowed. The order of termination/removal dated 14.02.1991 Exh.C is quashed and set aside. The applicant is held to be entitled for receiving 50 per cent of her salaries towards back wages from the school management from the date of this application till date of this order, which the management shall pay within three months. The applicant will be reinstated only if she is exonerated in the departmental inquiry. The management is directed to hold departmental inquiry against the applicant and complete the same within three months from the receipt of this judgment. If the applicant is ultimately exonerated, she will have to be reinstated in service. No order as to costs. The applicant shall cooperate in the inquiry. "

In view of the above order passed by the tribunal on 26th December, 2000, learned advocate Mr.Vibhuti Nanavaty appearing for the respondent No.1 has made a statement before this Court under the instructions from the respondent No.1 that the present respondent No.1 will not claim any back wages for the period from the date of the application filed before the tribunal till the date of the order passed by the tribunal on 26th December, 2000 as directed by the tribunal. In view of this statement made by Mr. Nanavaty, learned advocate for respondent No.1, accordingly, order dated 26th December, 2000 passed by the tribunal in aforesaid application is modified with a direction to the petitioner to complete fresh inquiry within four months from today. Learned advocate Mr. Nanavaty appearing for the respondent No.1 has made a statement that the respondent No.1 will cooperate in the inquiry. However, it is made clear that

in case if ultimately, as a result of the inquiry, the respondent No.1 is exonerated,then, the respondent No.1 is entitled to full salary from the date of the order dated 26th December, 2000 till the date of her actual reinstatement. Accordingly, the order passed by the tribunal on 26th December, 2000 shall stand modified in terms as aforesaid. Rule is made absolute accordingly with no order as to costs.

28.12.2001. (H.K. Rathod,J.)

Vyas